Distr.
GENERAL

UNCTAD/ITD/3
12 March 1993

ENGLISH/FRENCH only

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Transparency in the design of trade policy in the context of the fight against protectionism

Experience of selected countries

Geneva, 1 to 2 October 1992

GE.93-50800 (E)

CONTENTS

		Page
Introduction		3
Annex		
Statements		5
1.	Mr. Gary Banks Commissioner, Industry Commission, Australia	5
2.	Ms. Margarida Piani Adviser, Coordenaçao Técnica de Tarifas, Brazil	10
3.	Mr. John C. Coleman Chairman, Canadian International Trade Tribunal, Canada	24
4.	Mr. S.N. Chattopadhyay Acting Chairman, Bureau of Industrial Costs and Statistics, India	30
5.	Mr. Rachad Bouhlal Secrétaire Général, Ministère du Commerce Extérieur, Maroc	36
6.	Mr. A. Adetola Director, Fiscal Policy Budget Office, Federal Ministry of Finance, Nigeria	39
7.	Mr. Don E. Newquist Chairman, United States International Trade Commission, United States of America	41

INTRODUCTION

1. Transparency in the design of trade policy is deemed essential in order to remove the policy bias which, for various reasons, favours uncompetitive industries seeking protection. In the absence of information on the effects of protection on the community-at-large, Governments tend to resort to policies which enable inefficient capacity to remain in operation at the expense of low-cost imports. Developing countries clearly have an important interest in removing this policy bias.

2. The Trade and Development Board discussions on this topic at the first part of its thirty-ninth session in September 1992 was the earliest opportunity for UNCTAD to put into effect the new orientations and working methods which emerged from UNCTAD VIII, held in Cartagena de Indias, Colombia, in February 1992. The issue was thus brought to the attention of the Board after careful preparation, including extensive analysis and investigations which also benefited from inputs from governmental and non-governmental experts. In December 1991 the Secretary-General of UNCTAD convened a high-level Expert Group Meeting on Evaluating Protection in an Economy-wide Perspective. Further, at the informal meeting held during the thirty-ninth session (first part) of the Trade and Development Board, high-ranking officials concerned with trade policy had an opportunity to share their national experience with delegates. In his summary statement, the Chairman of this informal meeting commended the outstanding contribution to the discussions made by these officials; he characterized the interaction with delegates as extremely fruitful. The secretariat of UNCTAD was then encouraged to arrange for further such interaction involving high-level experts with regard to other trade-related topics on the agenda of the Trade and Development Board.

The Communiqué issued by the President of the Trade and Development Board at the end of the thirty-ninth session (first part) stated, inter alia:

> "The Board carried out in-depth discussions on issues relating to national transparent mechanisms in the context of the fight against protectionism.
>
> "It recognized that transparent mechanisms could be an important instrument against trade protectionism. It was also indicated that in many cases such mechanisms did make significant contributions towards trade liberalization. Some countries felt that effective use of these mechanisms could help in generating a favourable international economic environment which could ease the reform process of develping countries by reducing non-tariff barriers in developed countries.
>
> "The Board identified the following basic features for transparent mechanisms:
>
> - Transparent agencies should be independent from political pressures;
>
> - The transparency process should be open to all affected parties and should give them an apportunity to provide inputs and to express their views;

- The agency's work programme should be limited to investigative fact-finding, economic analysis and policy advice; the agency should not be involved in trade policy-making;

- The studies undertaken should evaluate the economy-wide effects of protection. The Board pointed to the need for such studies to include an analysis of the entire gamut of domestic measures which impinged on trade, including anti-dumping and anti-subsidy actions, as well as, if possible, the impact of protection on trading partners, in particular the developing countries;

- The studies should be done by competent professionals using modern methods of economic analysis; and

- In addition to policy advice work before the Government's decisions, review studies should also be conducted after the decisions have been taken.

"The Board also felt that the manner in which these features would be implemented might depend on the institutional framework in each country. It was of the view that UNCTAD should follow developments with regard to the issues of transparency in the conduct of trade policies.

"The Board also paid close attention to technical cooperation which in its view should receive the highest priority and include information on the establishment of agencies, assistance in institution-building, and training regarding appropriate economic methodology and data-gathering. In this connection, the Board invited the donor countries and donor agencies to support these efforts."

Strong interest was expressed by delegates in having the statements of high-ranking officials circulated to member States. In response to that request, annexed hereto are the statements in the original language by Mr. Gary Banks, Mrs. M. Piani, Messrs. J. Coleman, S. Chattopadhyay, R. Bouhlal, A. Adetola and D.E. Newquist.

Annex

STATEMENTS

1. Mr. Gary Banks (Australia)

Thank you for inviting the Australian Industry Commission to be represented at this important meeting. The Chairman of the Commission was keen to attend himself, but had pressing commitments in Australia which precluded it at this time. He, as well as I, commend the UNCTAD for taking this initiative and wish you success in pursuing it.

The question of institutionalizing transparency of trade and industry policies is something in which I have had a personal interest for some time - both as an "insider" in various capacities at the Commission, and in my work with the GATT secretariat, the Trade Policy Research Centre in London and more recently with the Centre for International Economics in Canberra.

UNCTAD's background document presents the logic of the case for domestic transparency very well. It also does a good job of describing the Industry Commission and its role in Australia. That being so, I will talk only briefly about the main features of the Commission and spend more time on some of the key lessons from the Industry Commission story as I see them.

The Industry Commission in a nutshell

The Industry Commission is the new name for which had been - from 1974 until 1990 - the Industries Assistance Commission. These days the Commission is much less concerned with protection issues that it once was, but its principal features have remained unchanged. These include: its status as an independent statutory authority with a policy advisory and informational role, but no policy-making or administrative responsibilities; the openness of its public inquiry process and the public availability of its reports; and in its requirement to take into account the interests of the economy and community at large (not just the interests of particular industries or groups) in framing policy advice to Government.

The Commission process comprises several stages or phases. It usually begins with a perceived policy problem - traditionally, what to do about a particular industry's claim for preferment or, more recently, how to improve the efficiency of certain public sector enterprises. The matter is discussed by the Federal Government Ministers, a reference to the Commission framed in consultation with relevant parties (including State Governments) and formally sent to the Commission by the Federal Treasurer, with a reporting time of typically one year. During this period, the Commission's inquiry generally involves: informal discussions with interested groups; preparation of an issues paper and a call for submissions; a first round of public hearings; the release of a draft report for public comment in a subsequent second round of hearings; and a final report to the Treasurer, for consideration by Cabinet.

The end result of this process may be some legislative or administrative action, but the Government is not bound to accept the Commission's advice. It may reject it or act on only parts of it. Or it may decide to defer action until politically more propitious times. There are plenty examples of all of these things happening.

Overall, however, it is generally acknowledged that the Commission has had a major impact both on the policy debate - especially regarding import protection - and also, eventually, on policy outcomes.

The Rattigan Report, issued by UNCTAD in 1987, observed that from 1974 to 1986, some 85 per cent of Industries Assistance Commission recommendations were either fully or partially implemented. Most of these involved significant reductions in industry protection levels. The Commission has also long argued for the adoption of across-the-board liberalization approaches, rather than piecemeal review of particular industries. The Australian Government instituted such an approach in May 1988, and decided in March 1991 to bring all tariffs down to a maximum of 5 per cent by 1996 (except for automobiles and apparel). The impact of these reforms can be seen in the attached Figure, which shows the downward trend in average effective rates of assistance to manufacturing (including non-tariff measures) since 1970.

Figure

Average effective rates of assistance for the manufacturing sector: 1968-1969 to 2000-2001

I would not want to leave you with the impression that the Commission deserves all the credit for what has happened. The politicians had to make the hard decisions - and they have been assisted by the increased economic literacy of the bureaucracy generally in Australia. However, the Commission has undoubtedly played an important role by: generating information and analysis needed by political decision-makers; providing a forum for all sections of the community to give their views about policies that affect them; and proposing specific reforms and testing public response.

It is a sign of how far we have come in Australia that, in recessionary times and with an election in the offing, the Government has stuck to its tariff reform programme despite vigorous lobbying by manufacturing interests. Not only that, opposition policy is to extend the process!

Some key factors in the Industry Commission story

Given the abundance of material describing the Commission and how it operates, I thought it might be useful to step back a bit and give my own impressions of some of the key elements in its establishment and evolution.

First, it is important realize that the Industries Assistance Commmission was not created from nothing. Australia had had a long-standing institution - the Tariff Board - with a tradition of public inquiry into tariff levels. The features of statutory independence, an advisory (not executive) role and public scutiny through hearings and published reports had been embodied in the Tariff Board since its inception in 1922.

This reflected Government recognition from the outset that the tariff is a form of taxation and that those affected should, in the interests of fair dealing, have an opportunity to have their say about proposed changes.

The problem with the Tariff Board was not its formal processes, which were transparent, but the very basis for its decisions: namely, a concern to safeguard the interests of particular industries. Protection was provided according to the needs of each industry, without really evaluating the interests of the economy and community generally. In other words, the Tariff Board contributed very little transparency to the wider economic impacts of industry protection.

A second important factor in the emergence of the Commission was the appointment of Mr. G.A. Rattigan as Chairman of the Tariff Board in 1963. Mr. Rattigan broadened the perspective of the organization, provided it with a research capacity and was instrumental in it eventually undertaking a systematic review of tariff assistance to all industries. This is briefly described in the Rattigan report for the UNCTAD secretariat, which I commend to you.

A third factor, which facilitated the new informational and liberalizing thrust of the Tariff Board's work, was the development of new and more powerful techniques for measuring assistance to industry. First came the "effective rate of protection" concept, which takes into account tariffs on inputs as well as outputs, to yield a measure of net assistance to industrial activities. It provides a much better guide than nominal tariffs to relative protection levels and also gives some indications of potential distortions in

resource allocation. With the help of consultants such as W.M. Corden, the Tariff Board engaged in a programme of effective rate measurement (which has been upgraded and continued to this day). This yielded important information about the most highly assisted industries and the costs of that protection - which was not lost on the farming and mining interests which bore much of that cost.

Later came the development of a more sophisticated tool for quantifying the economy-wide effects of protection policies. The ORANI model, as it is known, treats the economy as a system of inter-related industry sectors and contains considerable detail on the nature of production and demand. It has played an important role in helping the Commission to understand and explain the effects of changes in protection (and other measures) on the performance of different industries - their output, trade, employment and prices - as well as on GDP.

A fourth development was the election of a Government in 1972 which was keen to improve the efficiency of resource use in Australia and recognized the usefulness of the kind of work that the Tariff Board had been doing. It created the Industries Assistance Commission by Act of Parliament to replace the Board, and gave it a mandate to report on all forms of assistance to industries in all sectors (not just manufacturing tariffs). Importantly, the new Commission was also provided with statutory guidelines for its recommendations, which required it to promote the efficiency of resource use in the economy and to recognize the interests of industries and consumers generally. As noted, the Industries Assistance Commission maintained the characteristics of independence and openness of its predecessor.

The fifth point in my catalogue, was the provision of adequate resources to the IAC to enable it to operate at an adequate scale and produce quality research. Outside consultants were extensively used in the early years and a substantial in-house research capacity was gradually developed. The Industries Assistance Commission was soon recruitng top graduates from Australia's universities and a tradition developed of high achievement and professionalism. This was very important in an area where policy recommendations invariably hurt some members of the community and thus needed to be well argued and empirically supported. An important point in this context is that, unlike the Tariff Board which depended on the Department of Trade and Industry for approval to recruit staff, the Industries Assistance Commission acquired direct control over its staff resources.

Sixthly, the Commission has generally been given significant work to do. In the early years there was the comprehensive review of tariff levels. In addition, references were received on a range of major industries in circumstances where there was pressure to raise protection levels. However, the requirement that the Government seek IAC advice prior to changing tariffs and subsidies for particular industries inevitably meant that the Commission's time was sometimes occupied with minor matters ("the left-handed screwdriver industry" is how these were characterized within the Commission!). With the implementation of the programme of general reductions in protection, this problem largely disappeared. In recent years, the Commission embarked on a work programme covering service sectors of major importance to the national economy (including finance, transport, energy and water).

Seventh, the Commission's "Annual Report" proved to be an important vehicle for it to step back from the "trees" and describe the "forest" of industry policy in Australia, to give a sense of overall developments in assistance levels and the implications for economic performance. It had also been used by the Commission to draw attention to priority issues and thus to help influence its own agenda.

The eighth and final point that occurs to me is the importance of having a portfolio affiliation for the Commission that is consistent with its economy-wide perspective. The Commission has generally prospered least when it has reported to a minister with sectoral responsibilities. The Industries Assistance Commission was originally located within the portfolio of the Prime Minister and the Industry Commission currently reports through the Treasurer, both of whom must look to the economy-wide implications of policy proposals.

Concluding remarks

In concluding these brief observations, I would like to make it clear that, while I obviously believe the Commission has played a significant role in the liberalization process in Australia, the transition from early protectionist attitudes and policies has been neither easy nor rapid. The current phase-down in tariffs could be considered the final victory over the old protectionist regime, but that has taken over 20 years of effort and debate. There have also been significant setbacks in that period, such as the import quotas for automobiles and apparel that closely followed the 25 per cent tariff cut in 1974.

A lesson we have learned from this experience is that "hastening slowly", in line with community awareness of the need for change, is the key to durable reform. Sudden decisions can be undone just as quickly if they are not broadly understood.

It should also be said that the Commission and its predecessors have gone through some difficult times, when there has been a temptation for Governments to "shoot the messenger". The institution has been under threat of closure or emasculation on several occasions. In the end, I believe that what has saved it has been recognition that the Commission has been adding value to the policy-making process. That in turn has had much to do with its unique position in the policy-making arena and, in particular, to the "independence, oppenness and economy-wide perspective" which the UNCTAD has identified as key attributes.

2. Ms. M. Piani (Brazil)

I will begin by explaining how Brazilian Trade Policy has changed over the past few years. There are essentially three points: first, almost all non-tariff barriers have been eliminated. As these were a traditional part of Brazilian Trade Policy, this elimination signifies a big change in Brazil's dealing with the world. The second point is that a schedule for tariff reduction was established in 1991 for completion in July 1993 bringing a significant reduction in the average tariff (from 37 per cent in 1990 to 17 per cent); the third stage of tariff reductions must be in force as of 1 October 1992. This timetable may be extended as a result of recent changes in Brazil's Government. Thirdly, as a result of the changes in the institution framework, Brazil now has a Foreign Trade Department. This has resulted in a diminishing importance of CACEX - the M control agency, in the past - and the increasing importance of the Tariff Commission, whose main job is applying the reduction in tariffs (or in exceptional circumstances to raise them) and seeing to the application of the AD and CV measures.

Now I would like to turn to the matter of transparency. Our understanding of the recent UNCTAD report is that the emphasis lay in the transparency of the independent institutions advising Governments on trade policies. We would like to stress that there is nothing more transparent than the non-existence of non-tariff barriers (in addition to low tariffs, of course), which is the case in Brazil at the moment. This does not mean that we wish in any way to minimize the worth of such institutions. On the contrary, I believe that such an institution in Brazil would help greatly in stabilizing matters and reducing the possibility of Government changes in the rules concerning protection.

An important factor in Brazil's trade policy is the Brazilian Tariff Commission. There are two points I would like to make about the Commission. The first is the fact that there is complete transparency or openness in the procedures for deciding on the reduction (or not) of specific tariffs. This is done on a case-by-case basis, where both sides are heard and all procedures and decisions made public. It is not common in Brazil for consumers or workers to be represented in such discussions. So although this transparent mechanism is limited "within the industry", it has been an important mechanism to fight the demands for protection, as it makes clear the various degrees of protection along the production chain. The second point concerns AD and CVD procedures. These measures are industry-oriented, so they are not based on an economy-wide evaluation. There is a growing concern that AD and CVD measures are being used as a protectionist device. As a result, we have tried hard to be as fair and non-protectionist as possible, when using these instruments.

I would like to mention three examples as a way of showing the Government's intentions:

1. When an AD or subsidy petition is presented, the Tariff Commission seeks to establish as fully as possible whether there is a case to be heard. This is what we call "pre-procedure" investigation and means that such petitions are not lightly taken up.

2. The second example is the use of average prices, both domestic and foreign (which we feel is the fairest method, and is in contrast with the ITA's practices).

3. The last example refers to the AD and subsidy codes' recommendation that full margins of dumping subsidy should not be applied, but only sufficient to redress the prices balance and stop the harm to the domestic industry (that is to say, merely to bring the price of the dumped product up to the average normal prices).

In conclusion, given our limited resources and our relative inexperience in these matters, we are trying to do the best job possible. I think I can say Brazil is on its way towards a transparent agency for trade and industry matters in the future. So far the gains in the search of transparency have been concentrated on the opening up of the economy; other achievements towards greater transparency have been made on a rather operational basis.

Additional details on the politics of protection in Brazil are given in the attached appendix.

Appendix

THE POLITICS OF PROTECTION IN BRAZIL

Introduction

During the last three decades until the middle 1980s Brazilian economic development has been led by an import-substitution industrialization strategy. In many respects the results were very positive; the annual average rate of growth of industrial production in the seventies was 10.4 per cent. Brazilian industry is very diversified; with a large capacity in heavy industries such as petrochemicals, steel, non-ferrous metals, pulp and paper, industrial and electrical machinery installed through active governmental policies in that period.

However, the conditions that contributed to that successful performance were completely reversed by the fast worsening of the external current account balance, after the second oil shock and especially since the advent of the debt crisis, in late 1982. The subsequent arrangements to restore foreign debt payments increased the Government share in debt servicing and strongly influenced the accelerated decrease of public savings and investment.

The 1980s came to be known as "the lost decade" in Brazil. The democratic restoration that began in 1985 helped to prevent the adoption of more permanent, albeit unpopular, stabilization policies. Changes in the trade regime have also been postponed for many years, especially those related to import policy.

The import regimes in Brazil

A. The old regime

Traditionally, import policy in Brazil has been used as an auxiliary instrument to achieve the purposes set in the industrial policy and governmental programmes. Despite the high level of protection already provided to domestic industry, mostly through high import tariff rates, after the first oil shock, in 1974, import controls were greatly enhanced in order to avoid the growth of foreign trade deficits. Import surcharges were applied to a large group of products - about 40 per cent of all the tariff items - ranging from 30 to 100 percentage points. Although these surcharges were intended to be temporary, they remained in effect for 10 years.

In addition, a one-year "deposit" charge to be paid prior to the request of an import licence was also introduced, in an amount equal to the value of the imports. a/ Finally, an extensive list of products was announced that would not be allowed to be imported. The list - known as the "Annex C" - had its composition changed many times over the period it was in force. In its most comprehensive form, it concluded 4,400 tariff items, in 1983. When it was abandoned in March 1990, it had about 1,300 tariff items, most of them consumer goods.

These restrictive measures had a direct negative impact on economic activities that relied on imported inputs and equipment. This problem was by-passed with the adoption of several "special" import regimes that allowed specific industrial sectors to import at reduced or free rates.

The second oil shock and the foreign debt crisis were followed by the introduction of several protectionist measures. Imports were limited to firms according to an annual programme that had to be approved by CACEX b/ at the beginning of each year, since 1980. Importers had to get external financing for their purchases above a certain amount. The "National Similar Law" - formerly applied only to products imported under a special regime - was used to avoid imports of all goods that were produced domestically, even at their original tariff rates.

By the middle of the 1980s the import policy in Brazil could be described as follows:

(a) The tariff structure presented high nominal tariff rates, with redundant margins; additional charges and several taxes were added to the import tariffs (the IOF, a tax on financial operations, the TMP, a tax to improve harbours, and the AFRMM, a tax to finance investments of the merchant fleet were the most important);

(b) Forty-two special import regimes that allowed for reduced or free import tariff rates benefited about 70 per cent of all imported goods, excluding petroleum;

(c) Non-tariff barriers were extensively used: outright prohibitions (Annex C), previous authorizations to import (steel, computers), annual quotas for firms, among others.

The anti-export bias of the protectionist import policy was partially offset by subsidies granted to exports, especially of manufactures (tax exemptions, export credit at preferential rates), and other incentives provided within certain programmes ("drawback", the BEFIEX programme that allowed imports at free and reduced tariff rates subject to a commitment of future exports). When the Government could no longer afford these transfers to the export sector, and the subsidies were phased down, a reduction in the level of protection to the domestic industry was finally considered necessary.

A first tariff reform was approved in June 1988. The technical project proposed by the Brazilian tariff commission (then CPA) was aimed at the elimination of all special import regimes, excluding those related to international agreements (GATT, ALADI, etc), the ones related to export performance (drawback, BEFIEX) and some regional programmes. Due to strong political pressures supporting of the status quo, most of the special regimes remained. Likewise for the tariff rates that resulted from the reform. The tariff reduction achieved was less significant than that intended by CPA: the average legal tariff rate for industry decreased from 54.7 per cent to 37.7 per cent. The tariff rate reductions also varied by industrial sectors; they were as large as 55.2 per cent and 50.5 per cent for wood and paper products, but were only 8.3 per cent and 3.4 per cent respectively, for industrial machinery and pharmaceutical products.

The 1988 tariff reform was improved by a further decrease in the import tariff rates of capital and intermediate goods in the following year.

These changes in the Brazilian import tariff structure reflected in the overall average figures shown in Table 1.

Table 1

BRAZILIAN IMPORT TARIFF STRUCTURE - ALL PRODUCTS

(Percentages)

	1987	1988	1989
Simple average rate	51	41	35
Modal rate	30	40	40
Median rate	45	40	35
Standard-deviation	26	17	20
Minimum-maximum rates	0-105	0-85	0-85

Source: CTT/DECEX/MEFP.

Despite the progress represented by the tariff rates reductions, the remaining special regimes and the widespread use of non-tariff barriers prevented an effective import liberalization.

B. The new regime

The new Government that took office in March 1990, initiated a deep reform of the Brazilian foreign trade administration. The institutional organization was modified: it created the Foreign Trade Department (DECEX), linked to the new National Secretariat of Economy (Secretaria Nacional de Economia), an agency of the Minister of Economy. The two important governmental agencies previously in charge of foreign trade affairs - the CPA and CACEX - now belong to DECEX; their names were changed to Coordenacão Técnica de Tarifas (CTT) and Coordenadoria Técnica de Intercâmbio Comercial (CTIC).

The exchange rate system that had operated since 1968 in a fixed "crawling peg" way was allowed to float. c/

The import policy liberalization was initiated by abolishing the most important non-tariff barriers. "Annex C" was immediately extinguished as well as the special import regimes, except the "drawback" system and the one for the Manaus Free Trade Zone. As of 1 July, the quotas established for the firms in their annual programmes came to an end.

At the same time, a four-year comprehensive plan of tariff rate reductions was announced, to start early in 1991. By the end of that period, the modal rate was expected to fall to 20 per cent and the maximum to 40 per cent. d/

The purpose of the advance notice of the future tariff reductions was to give the local industry a period of time for adjusting to an environment of increased competition. Henceforth the degree of protection to the domestic market will depend on the level of the real exchange rate and on the import tariff rates. In addition, in the cases of unfair trade, local producers can already count on the anti-dumping and countervailing duty laws.

The basic methodological procedure used to fix the new tariff structure was an assessment of the productive chains in the broad sectors of economic activity. In addition other kinds of data and information were employed by the technical staff of CTT, such as external and domestic prices, technological content, the average tariff rate of the inputs of a product etc.

For 1994, the vector of tariff rates was then fixed as follows:

- clearly competitive products (aluminium, pulp, iron ore, orange juice), products with high natural protection (stones, cement) and commodities: free;

- products that had a tariff rate of 5 per cent in 1990 (rice, corn flour) remained with 5 per cent;

- productions which have as inputs other products having a free tariff rate: 10 per cent to 15 per cent.

For example: pulp - 0 per cent; paper - 10 per cent and paper products - 15 per cent. Most other manufactures - 20 per cent; some chemical products, wheat and wheat products, some consumer electronic products - 30 per cent; automobiles, trucks, motorcycles - 35 per cent; computer industry products - 40 per cent.

Once the upper limits of the 1990 tariff rates and the 1994 lower limits were established, the reduction speed was calculated to provide a smoother decline for consumer goods in the first two years and a more accelerated one for intermediate and capital goods in the same period. This path of reduction was adjusted, of course, to the decline produced in the inputs tariff rates. As a result, the tariff structure is expected to change as indicated.

By early 1994, following the schedule announced, the average tariff rate will have fallen to 14.2 per cent and the tariff rates will be much more uniform.

Table 2

BRAZILIAN IMPORT TARIFF STRUCTURE UNDER THE 1991 TARIFF REFORM

1991 - 1994

(Percentages)

Years	Average tariff rate	Modal rate	Standard-deviation
1990	32.2	40	19.6
1991	25.3	20	17.4
1992	21.2	20	14.2
1993	17.1	20	10.7
1994	14.2	20	7.9

Source: CTT/DECEX/MEFP.

Tables 3 and 4 show, respectively, the nominal tariff rates and the effective rate of protection for specified industrial sectors of the Brazilian economy, in the period 1990 to 1994.

Table 3

BRAZILIAN IMPORT NOMINAL TARIFF RATES* - 1990/1994

(Percentages)

Sectors of economic activity		1990	1991	1992	1993	1994
1	Agriculture and Farming	16.4	12.7	11.0	9.9	9.1
2	Minerals	7.4	4.8	2.9	1.8	1.5
3	Petroleum & coal	0.6	0.3	0.2	0.1	0.0
4	Non-metallic minerals	24.0	14.3	12.0	8.5	7.6
5	Steel	18.3	13.6	11.2	9.0	7.5
6	Non-ferrous metals	21.3	15.7	13.2	10.6	9.4
7	Other metallurgical products	34.7	27.4	23.3	20.0	16.5
8	Industrial machinery and other equipment	39.2	30.1	25.7	21.0	19.6
9	Electrical equipment	39.2	31.6	27.3	22.1	18.7
10	Electronics and communication equipment	51.3	43.5	38.0	32.2	25.4
11	Motor vehicles	79.6	58.8	48.9	39.1	34.2
12	Shipbuilding and railroad equipment	37.7	29.7	25.2	20.5	19.2
13	Wood, furniture	29.0	20.5	17.0	14.6	14.5
14	Pulp, paper and paper products	22.0	12.3	9.9	8.7	8.5
15	Rubber	51.4	36.7	29.3	20.7	15.2
16	Chemical products	18.1	12.5	12.0	10.5	10.1
17	Petrochemical products	5.9	4.4	3.8	3.2	2.9
18	Fertilizers and other chemical	24.4	18.4	15.0	12.9	12.5
19	Pharmaceutical products	39.1	28.4	21.3	17.6	15.6
20	Plastic products	40.1	35.4	30.0	21.3	18.9
21	Textile yarn & fabric	34.2	33.5	26.5	22.1	15.8
22	Clothing	49.6	46.8	37.8	28.9	19.9
23	Footwear and leather	39.9	32.9	25.7	18.3	16.9
24	Processed food	26.3	20.6	17.2	15.2	13.4
25	Beverage	75.2	63.7	53.5	34.7	19.7
26	Tobacco	79.1	69.5	60.0	37.3	19.1
27	Other manufacturing	43.9	35.0	28.5	22.4	27.3

* Weighted by the 1980 value of production (from IBGE classification)

Source: CTT/DECEX/MEFP.

Table 4

BRAZILIAN EFFECTIVE RATES OF PROTECTION* - 1990/1994

(Percentages)

Sectors of economic activity		1990	1991	1992	1993	1994
1	Agriculture and Farming	16.6	13.1	11.5	10.4	9.6
2	Minerals	6.3	3.6	1.6	0.6	0.5
3	Petroleum and coal	-2.3	-1.8	-2.1	-2.0	-2.0
4	Non-metallic minerals	31.8	16.9	14.4	9.5	8.4
5	Steel	28.0	22.8	19.4	16.1	14.6
6	Non-ferrous metals	28.9	21.2	17.7	14.2	12.5
7	Other metallurgical products	44.2	35.7	30.6	26.8	21.6
8	Industrial machinery and other equipment	45.0	34.7	29.6	24.1	23.0
9	Electrical equipment	47.8	39.2	33.9	27.2	22.5
10	Electronics and communication equipment	65.2	56.4	47.8	40.0	30.3
11	Motor vehicles	155.8	124.8	93.8	75.1	62.5
12	Shipbuilding and railroad equipment	42.6	34.0	28.9	23.5	22.9
13	Wood, furniture	33.6	25.3	20.0	16.9	17.4
14	Pulp, paper and paper products	24.4	13.1	10.4	9.3	9.2
15	Rubber	66.1	44.6	34.6	22.8	15.7
16	Chemical products	18.4	12.2	12.2	10.7	10.4
17	Petrochemical products	7.2	5.8	5.4	4.4	4.0
18	Fertilizers and other chemical	27.9	21.0	16.6	14.6	14.3
19	Pharmaceutical products	56.6	38.7	26.8	22.0	18.7
20	Plastic products	49.8	46.2	38.5	25.6	22.4
21	Textile yarn and fabric	47.1	47.9	35.5	29.7	19.5
22	Clothing	59.3	55.8	46.4	34.5	23.1
23	Footwear and leather	52.9	43.6	32.7	21.5	20.4
24	Processed food	33.0	25.2	20.4	17.6	15.2
25	Beverage	120.9	108.0	89.3	51.5	24.8
26	Tobacco	133.3	117.6	98.7	54.7	23.9
27	Other manufacturing	53.2	43.2	35.1	27.1	20.4

* Weighted by the 1980 value of production; (Corden methodology)

Source: CTT/DECEX/MEFP.

At the levels prevailing in 1990 in most of the industrial sectors, the nominal and effective protection rates were so high that the first reductions brought about in the tariff reform were not opposed, unless in a few specific cases that will be commented on last.

The next section will focus on the political process that influences the decision-making of the tariff protection at the Brazilian Tariff Commission (CTT).

The political economy of tariff protection

A. Establishing the best tariff structure

There are two kinds of problems in establishing a tariff structure: the first is the choice between a uniform effective protection or not; the second is the choice concerning the level of protection.

The basic principle of uniform effective protection is to let the market select the economic activities that will expand production. This procedure has the advantages of simple administration by customs officers and prevents political pressures for "rent-seeking". Nevertheless, a uniform tariff rate does not necessarily provide uniform effective protection. In the case of tradable inputs, it may produce an anti export-bias. So, uniform effective protection may require a complex tariff structure (Corden, 1971).

Alternatively, for a differentiated tariff structure, it is necessary to identify the standards for fixing the tariffs product-by-product. Implicitly many countries, including Brazil, currently use the "made-to-measure" tariff concept, in which tariffs are calculated to equal exactly the domestic and foreign costs of production, preventing monopoly profits. As a matter of fact, as Corden points out, the equalization doctrine must be interpreted "as a guide to fixing tariff-levels for those products where protection has already been decided upon, and not as a guide to which industries should be protected".

In fact, however, this principle has been generally applied, despite its several shortcomings - it stimulates corruption and restrains X-efficiency gains. In addition, it must be often updated, as production costs change.

An alternative practical way of setting tariffs is to fix a set of few different and low tariff rates, decided upon the most general and explicit principles possible. A proper way of choosing tariff levels would require the measurement of the value added at international prices, for each industry. The tariff rates would then be set at a certain level, according to specific objectives. Owing to the difficulties of getting such information, tariff rates are set in a more subjective manner.

B. Establishing tariff protection in Brazil

The differentiated tariff structure was first introduced in Brazil in 1957. Along all the period from 1957 to 1990, the Tariff Commission (CPA) judged the requests for tariff rate changes on the basis of the "made-to-measure" concept.

The petitions filed on behalf of a firm or an association of producers included data on the domestic market (capacity and capacity-utilization, employment, sales, apparent consumption, prices), the costs of production and the foreign trade balance of the product. Consideration was also taken of the impact on the productive chain, on both downstream and upstream stages, in the case of intermediate goods. The report prepared by the technical staff of CPA was analysed by a group of 13 government and three private-sector representatives which made the final determination about the tariff rates changes.

Usually a tariff rate level was suggested sufficient to allow the domestic production at normal profit rates. For a firm's request, the upper limit was the highest tariff rate in effect for the industry. In the case of an industry request, this limit could be exceeded.

There were serious problems with this tariff-making process. First, the costs of production could not be verified, except in the case of chemical products, for which the technical coefficients are available in the literature. Most important, the tariff rate increases ratified the firm's inefficiencies; investments to reduce costs of production became less attractive. Conversely the more efficient companies could have their monopoly profits swept away by these tariff rate changes.

The tariff rates that made profits available for the firms at their initial stage of operation were not further reduced, when the marginal costs of production declined. The tariff structure grew full of redundant margins, reinforced by the increasing utilization of non-tariff barriers during the recurrent balance of payments crisis of the 1980s.

The tariff reform undertaken in 1988 and the subsequent amendments made in 1989 had as a major purpose to reduce the tariff rates to the amount equivalent to the excess of the domestic prices over the foreign prices (implicit rates). Even though it was not aimed at launching a liberalization programme, it made the tariff structure more transparent.

The present tariff reform is part of a new foreign trade and industrial policy that is intended to open the economy gradually and make domestic industry more competitive.

Tariff protection

Economic literature puts great emphasis on the role of the Government as a mediator between the protectionist demands of the business sector and workers' and consumers' interests.

In Brazil the private sector usually lobbies Government agencies, seeking protection. Workers and consumers traditionally have not participated in this action.

In the old CPA, the selection of the 13 governmental agencies that belonged to the decision group was a result of their specific cases of concern (see table 5). They proposed and supported protectionist measures related to their interests, paying no attention to the social costs incurred.

Table 5

THE CPA DECISION GROUP COMPOSITION

Institution	Subjects of interest
- Governmental	
Minister of Interior	Regional development
Secretariat of Science and Technology	Computer industry and other technology-based industries
Minister of Agriculture	Agriculture and related inputs and machinery
Secretariat of Planning	Economic planning
Minister of Industry and Trade	Industry
Foreign Exchange Board of the Banco do Brasil (CACEX)	Foreign trade policy, excluding import tariff rates
Minister of Foreign Relations	International negotiations
Secretariat of International Affairs	External credit from international institutions
Special Secretariat for Economic Affairs (Minister of Economy)	Various
Central Bank	Monetary and exchange rate policies
Special Secretariat of Supply and Prices Control	Prices control
Secretariat of Federal Income	Fiscal policy
- Private Sector	
National Confederation of Industry	Industrial activities
National Confederation of Agriculture	Agricultural activities
National Confederation of Commerce	Commercial activities

Source: CTT/DECEX/MEFP.

The proposals of tariff rates reductions were generally opposed by the National Confederation of Industry supported by some of the governmental agencies, in particular the ones more closely related to the specific industry being considered. This kind of alliance helped to keep some tariff rates at high levels during the 1988 tariff reform, especially textiles and clothing, petrochemicals, fine chemical, machinery and equipment, electronics and toys.

When the CPA was abolished, the decision group was also abolished. Since then, the technical reports are judged by the Foreign Trade Department (DECEX), the National Secretariat of Economy and the Minister of Economy, which makes the final decision.

For the current tariff reform, a consultative committee was created with almost the same composition as the former decision group. Several industry associations were invited to make suggests but their influence on the outcome was much less than in the previous reform. The tariff rates reductions agenda was extensively discussed within the Government, especially with the Department of Industry and Trade (DIC) and CTIC (the old CACEX).

Interestingly, these governmental agencies, in particular the Department of Industry and Trade and the Secretariat of Science and Technology, were especially concerned about keeping a higher level of tariff protection for the technology-based industries, such as computers e/, consumer electronics, fine chemicals. Indeed, these sectors will have the highest tariff rates in 1994, between 30 per cent and 40 per cent. Other important industrial sectors were also successful in moving the governmental authorities to accept higher levels of tariff rates, pointing out examples in other countries - in the case of automobiles - or the threat of injury through unfair trade - in the case of petrochemicals.

The present stage of tariff reform

The import liberalization programme has been in effect since March 1990. During this period it has not been greatly disputed, although it may be taken into account that even through 1992 the tariff rates reductions will not be very large. Nevertheless, it seems that most of the domestic industry is making no investments in order to modernize in the face of tougher competition from imports. Indeed, interest rates have been kept at high levels by the monetary authorities and the country has been plunged into a serious big recession. The exchange rate system has been subject to great instability through the intervention of the Central Bank, often keeping the cruzeiro overvalued to help fight inflation, but other times doing the opposite, when the trade balance performance worsens.

These unfavourable macroeconomic trends may contribute to undermine the safe completion of the liberalization programme and certainly lead to mounting political protectionist pressures.

The Government has also been taking other initiatives to carry on the liberalization measures. The Brazilian import tariff rates will be bound at a ceiling of 35 per cent at GATT during the ongoing Uruguay Round. Conversely, the MERCOSUL integration project is growing in importance. Nevertheless, the creditworthiness of the trade regime reform must be preserved, as long as some old non-tariff barriers such as the import licences are still available and a long period of industrial restructuring and adjustment has still to be overcome.

Notes

a/ This requirement was eliminated in 1979.

b/ CACEX is the foreign exchange board of the Banco do Brasil, the major governmental financial institution. It was the public agency in charge of administering the non-tariff barriers applied to imports during this period.

c/ So long, however, it has not operated as a freely floating exchange rate system. Due to the efforts to put inflation under control, the exchange rate has been kept fixed for long periods and recently has been strongly depreciated by a huge intervention of the Brazilian Central Bank.

d/ These figures will be possibly changed to lower ones as a consequence of the integration programme with Argentina, Uruguay and Paraguay - the MERCOSUL - that must be completed by the beginning of 1995.

e/ Special attention was given to the national computer industry for which the domestic market had been reserved until October 1992 through a national law.

3. Mr. John C. Coleman (Canada)

I am pleased to take part in this discussion of "national transparent mechanisms" and the role they can play in the fight against protectionism. I look forward very much to an opportunity to compare notes with colleagues from developed and developing communities who have a common interest in this matter. We are all committed to trade expansion and trade liberalization and we represent bodies in our own administrations which have an institutional bias in that direction.

I am also pleased that it is UNCTAD which has called this meeting. Twenty-five years ago, when I began my career in international trade and finance, one did not read in UNCTAD documents about the virtues of trade liberalization and structural adjustment. To be fair, these notions were not by any means seen at that time as received truths, even among the industrialized members of UNCTAD.

Painful experiences with inflation, slow growth, payments disequilibria, and international indebtedness have taught us all harsh lessons. They have made us more respectful of market forces and more humble about the effectiveness of Government interventions. They have also left Governments with very high deficits and little or no budgetary room to intervene, even if they so wished.

In response to these problems, a number of industrial and developing countries have deregulated their economies and opened themselves to foreign trade and investment. Their success has been an inspiration, but it has not come easily. Wrenching adjustments have been necessary and still more lie ahead. Further progress cannot be made without full public understanding and support. In this context, it is natural to consider the role of "national transparent mechanisms". (For convenience, I will call these creatures NTMs.)

Canadian experience

In the UNCTAD secretariat paper for this meeting, two Canadian agencies are mentioned as having some of the features which would be found in the ideal NTM. They are the Economic Council of Canada and the Canadian International Trade Tribunal, which I chair.

The Economic Council of Canada, sadly, was wound up earlier this year as part of a Government streamlining and expenditure reduction programme. The Council was a Government-funded but arms-length agency whose mandate was to promote, through independent research and publications, improved public understanding and consensus on economic and social issues as well as Government policies conducive to non-inflationary economic growth and structural change.

During its 25-year life, the Economic Council did a number of studies of Canada's trade performance, policies and options. However, the Council seldom focused on the costs of any particular trade measure or intervention. Rather it was interested in how the economy as a whole, and major sectors of it, would be affected by possible multilateral and bilateral trade liberalization moves. For instance, in the mid to late 1980s, the Council's work on the costs and benefits to Canada of the proposed Free Trade Agreement (FTA) with

the United States lent much weight to the case for proceeding with the Agreement. The Council, in sum, was a voice promoting trade liberalization as an aspect of positive, economy-wide adjustment.

My own institution, the Canadian International Trade Tribunal (CITT) has two major functions which are of interest in this discussion.

First, we form part of Canada's "trade remedies" machinery. As such, we conduct material injury inquiries related to anti-dumping and countervailing duties actions, and serious injury inquiries related to GATT Article XIX import safeguards actions.

Secondly, we act as a kind of standing commission to which the Government can refer trade, tariff or any related economic matters for research, public hearings, and a report with recommendations.

In our four years of operations, we have been asked under this heading for advice (a) on how to reduce Canada's MFN textile tariffs as a way of complementing the bilateral FTA reductions; (b) on how to deal with sector competitiveness problems caused by different phase-out periods for tariffs under the Canada-USA FTA; (c) on the post-FTA competitiveness of our fresh and processed fruit and vegetable industry; and (d) on better methods for allocating import quotas relating to Canada's "supply-managed" poultry and dairy industries.

None of these studies has dealt specifically with the costs of protection. Instead, most of them have been related to post trade liberalization sectoral adjustment problems. The Tribunal's task was to help the industries concerned and the Government better understand these problems and arrive at solutions that made economic and political sense.

Through both our trade remedies and our trade inquiries windows, the Tribunal operates in a quasi-judicial manner, at arms-length from the Government. We are not connected to, or part of, any other Government department or agency. Our annual budget, funds for special projects and the size of our staff are approved, of course, by Parliament and subject to the usual disciplines which apply to Government departments and agencies.

In our trade remedies work, we apply and interpret Canadian laws and the GATT codes without any interference or direction from the Government and our decisions are final. In our trade inquiries work, we operate under terms of reference given to us publicly by the Government. Once we have received the terms of reference, we decide how we will conduct the inquiry and we take our decisions on the substance of the matter without interference from the Government. Our completed report with recommendations becomes a public document.

In Canada, administrative tribunals like ours are half courts - half Government departments. In our case, there are nine government-appointed members of the Tribunal, the "judges" who read the parties submissions, hear their testimony, take decisions or develop recommendations, and give written reasons for these. Supporting them is an expert staff of about 90 regular civil servants who provide administrative support, background research and economic and legal advice.

In both trade remedies actions and trade inquiries, the Tribunal makes a point of receiving written submissions from all interested parties and allowing them to present their case and cross-examine one another in oral hearings. Everything is on the public record, subject to certain provisions to protect commercially confidential material.

In our trade remedies cases, the onus is on the domestic producers to convince the Tribunal of the need for special trade measures. Arrayed against the producers are the exporters, importers and, on occasion, the distributors, users and consumers of the product in question. All of the parties, thanks to the openness of our procedures, know in detail the case which is being made against them. Because of this very probative process, on average in only two out of three cases where Revenue Canada has made a preliminary determination of dumping or subsidizing, does our tribunal go on to find material injury. Furthermore, because of intensive review procedures, on average only one out of four of those injury findings survives beyond five years. I will explain later why I have taken this time to describe our trade remedies work, not simply our trade inquiries functions.

Reflections on the UNCTAD paper

Having said something about relevant Canadian experience, I would now like to reflect on some of the points in the secretariat paper.

My first observation is rather an obvious point; that no domestic transparency agency is likely to get very far, or even be created, unless the Government is firmly committed to structural adjustment and trade liberalization. This thought leads to a number of questions:

If the necessary political will does exist, is a transparency agency really necessary? If so, what should it work on?

Should it itemize the costs of restrictive policies already in place? Or should it depict the benefits of new liberalization measures and deal with concerns about the adjustment process?

Should it comment only on trade measures, including tariffs and NTBs? Or should it look more broadly at domestically-oriented interventions, regulations and subsidies which impede structural adjustment and distort trade and investment flows?

Each country probably will have to answer these questions for itself. You will see, as I continue, how I would answer them personally.

My second reflection has to do with the secretariat's reference, at the start of paragraph 9, to "... the trade-policy bias in favour of uncompetitive

industries seeking protection." */ The secretariat goes on to speak of the power and skill of special interest groups in obtaining protection, the costs of which are not easily measured because they are spread among the community at large.

There is a great deal of truth in this observation, and it applies to all of us. Nonetheless, as far as Canada is concerned, I believe it is less true than in the past. To be sure, the traditional "soft sectors", mainly textiles and clothing, continue to enjoy the high tariff and quota protection they have had for more than a generation. Furthermore, the experience of the early to mid-1980s in which we obtained "voluntary export restraints" from Asian car makers is not forgotten, nor I should add is the ultimate lack of success of that policy.

For the past seven or eight years, however, Canada has been in a constant state of trade liberalization, inspired by our participation in the Uruguay Round, the Canada-USA FTA and the USA-Mexico-Canada NAFTA talks. These negotiations have been accompanied by internal structural adjustment measures involving deregulation, tax reform, and a general reduction in Government aids and interventions.

These changes, though not always welcomed, are generally recognized to be the inevitable result of our growing integration in the world economy and of the difficult state of Government finances. The debate in Canada is not so much about trade protection versus liberalization as about the pace and path of adjustment and about the kind of internal policies needed to make us competitive. I suspect this is true of many of the countries around this table.

My third observation is that the universe of existing NTMs appears to be shrinking, not expanding, if judged by the institutions covered in the secretariat paper. Of the five, the Economic Council of Canada and the New Zealand Economic Development Commission have disappeared. Furthermore, the mandate of the Australian Industry Commission, everybody's favourite model for an NTM, is changing, apparently towards more emphasis on export promotion. That leaves the US International Trade Commission and the CITT, two institutions that can do and have done work in this area, but whose objectivity may be questioned because they also are integral parts of their countries' trade remedies machinery.

My fourth observation concerns the difficulty of measuring precisely the costs of protection, still less the benefits of trade liberalization and the related costs of adjustment. This reflects the limitations of comparative static analysis and the problems of getting good and up-to-date national accounts and input-output tables.

We have found this in our own work at the CITT on sectoral adjustment problems. The difficulty, for instance, for current methods of analysis to

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*/ TD/B/39(1)/3.

depict the investment response to changes in levels of trade protection has led some parties to challenge some of our results. We have found that even with the best of statistics, analytical and interpretive differences often force us to express in very broad ranges the likely effects of different trade or tariff arrangements. I mention these difficulties because of the confusion these nuanced messages can cause even in countries with a high level of economic literacy.

Ideas for future work and cooperation

I would like, finally, to offer some suggestions for further work and cooperation in this field.

First, I think we need to recognize that countries can promote the goal of transparency in a number of ways, not simply by creating an institution for this purpose. For instance, in Canada, "regulatory impact statements" accompany and usually precede the passage of all legislation and regulations. These cover all Government interventions, not simply border measures. They help inform the public of the likely effect on them of Government regulations. Some countries also make use of "sunset" clauses which ensure that regulatory interventions expire after a certain time.

Secondly, if an institutional response is preferred, the NTM should not narrowly focus on the analysis of trade-related policy, as appears to be envisaged in the UNCTAD secretariat report. Rather, it should conduct studies which promote broad domestic structural reforms aimed at reducing labour and capital market rigidities, legislated monopolies, and other obstacles to growth. From the standpoint of promoting public acceptance of better policies, the focus should be not simply on the costs of existing arrangements or of adjusting to new policies, but also on the gains to be had from the liberalization.

Thirdly, transparency is important in another sense, namely in the administration of trade policies and trade measures. This issue is quite important today, with more and more countries establishing trade remedies institutions as they lower tariffs and other barriers. I mentioned earlier the openness of the CITT's procedures which ensure that all interests are heard and that special measures of relief are not granted lightly or continued indefinitely.

Transparency and due process in trade remedies administration help ensure that these measures do not turn into a structural and long-run form of protection. We at the CITT are eager to share our experience and expertise in this area because we believe that the widespread use of due process and openness in trade remedies administration will ensure that these measures will be used only when fully justified. There is indeed great scope for more international cooperation in this area.

Fourthly, technical assistance on the part of experts in UNCTAD, the GATT, the IMF, the World Bank and national institutions deserves high priority. At the CITT, we welcome quite frequently delegations from countries which are developing or reinforcing their trade institutions. The Canadian International Development Agency is assisting a number of these exchanges.

Fifthly, UNCTAD could play a particularly helpful role in assisting member countries to develop the appropriate statistics and analytical tools to conduct trade and structural adjustment studies. Its Trade Measures Data Base is already a useful, but too little known and used tool. One approach to showing the cost of protection in an economy is to express as tariff equivalents non-tariff measures and internal regulations which affect trade flows. I wonder if the UNCTAD secretariat could assist interested member countries in the tariffication of their NTBs, if not of all domestic regulations? Such an exercise, if it could be carried out, would help countries which are unable to set up an NTM to give their public a better idea of the costs of various policies affecting trade.

Finally, I also consider that the GATT Trade Policy Review Mechanism (TPRM) could be further strengthened, though it is off to a good start. At first, TPRM country reports tended to be rather descriptive, listing various policies and measures, though lately they have done more to analyse the effects of policies and regulations on trade flows and on domestic economic efficiency. There seems to be ample scope for national authorities and the GATT secretariat to cooperate in making these reports even more pointed and analytical. Here again, there may be a role for UNCTAD in helping developing country contracting parties of the GATT to implement ideas for improvement emerging from their TPRM reviews.

Conclusions

Trade is affected by a variety of internal regulations, not simply by border measures. Countries must find ways, institutional or otherwise, to measure and publicize not simply the cost of restrictive trade policies but also the benefits of positive economy-wide structural adjustments.

Transparency and openness are powerful weapons against trade protectionism. Some countries will want to take an institutional approach to this issue by establishing "national transparent mechanisms" aimed at showing the real costs of trade barriers. Other ways of showing the costs of protectionism can also be found.

It is also important that countries develop trade administrations which operate according to due process and in full transparency.

There is a lot of room for greater national efforts and more international cooperation in these areas. The political will to establish NTMs may not always be present, even in countries committed to trade liberalization. This underlines the important role which can be played by international organizations in monitoring the use of measures which restrict trade, estimating their costs, and proposing better policies. UNCTAD, for instance, can play a role in technical assistance, and also in providing opportunities such as this for countries to exchange experiences and encourage one another to pursue liberal policies.

4. Mr. S.N. Chattopadhyay* (India)

It is indeed an immense pleasure and privilege to address this august body and to participate in the informal deliberations of the Trade and Development Board. I am grateful for this opportunity to share with you the experiences and perceptions of the Bureau of Industrial Costs and Prices of India on the subject of transparency mechanisms.

The six characteristics that the UNCTAD secretariat has listed (in TD/B/39(1)/3 of 17 July 1992) as being vital features of a transparency mechanism are fully endorsed by the Bureau which I represent. As my brief presentation will demonstrate, India is a practitioner of such a regime of growth and regeneration. I would add three more features for incorporation, however: first, transparency studies should also cover such trade policy measures as anti-dumping and anti-subsidy actions; secondly, the transparency mechanism of each country should be in harmony with both national and global perspectives; it could be subject to periodic mutual appraisals to assess the common benefit; and thirdly, the country transparency mechanism should not be made to function as a mere research-cum-advisory body - a "handling system" should be so designed that recommendations could not be altered during implementation, or left unimplemented, except in the case of review by the highest policy-making body of the national Government.

Seeing is believing. Justice carries conviction. The best social approbation is accorded not only when a cause is just but when it appears just. Welfare is best served when it can be seen to happen. For care and concern to be manifest it is not loftiness that counts, but rather demonstration. Transparency is the key word for human relations. This is at the heart of growth, development and integration.

All economic activities lead to buying and selling at a price compatible with the desires and expectations of the parties involved. Ultimately, therefore, what is really bought and sold is not a product or a service, but a relationship; the more transparent it is, the more reassuring it becomes for perpetuation.

Given this conceptual context, the relevance of a transparency mechanism in terms of industry and trade policies and practices becomes all the more evident. When a "cost plus" syndrome or proliferation of concessions and exemptions or physical barriers take dominant positions in an economy, considerable inefficiency gets built into the system; thus there is a clamour for protection. In the process, a high-cost syndrome sets in; the economy suffers from imbalances and loses its competitive edge.

A tariff is a very effective and versatile instrument to achieve positive results with the least scope for leakages; it puts pressure on inefficiency to change gear or change course; it stimulates competition and integration; it unleashes entrepreneurial and innovative skills; it helps improve

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demand-management; and it makes the economic system transparent without being spoiled by everchanging bureaucratic judgements and practices. A tariff system based on domestic-efficiency price and international-trend price acts as a catalyst. When it operates in a decontrol regime, it becomessynonymous with growth. In view of its strength, if they are constantly monitored and calibrated in line with changes in domestic and international price scenarios, tariffs become the simplest and most effective instrument of economic management.

Concerning economic activity, protection has both merits and drawbacks. To make the system meritorious, three questions must be satisfied: Protection of whom? For how much? For how long? Infants need protection. However, infancy cannot be protected in perpetuity. This is against the principle of growth. The quantum of protection depends on the stage of infancy and the inherent capacities. It is essential to monitor and measure the growth perspectives and the efficiency efforts of the infant seeking to reach independence and compete in the world. Lastly, infant industries and the related protectionism, with its attendant syndrome of self-sufficiency, cannot be allowed to become an excuse for inefficiency, obsolescence and high cost. The role of the national transparency mechanism is to advise the Government, through investigative studies, on measures to create competitive market conditions. Likewise it can advise the industry, utilities and service sectors on their strengths and weaknesses and the path they should adopt towards growth. The transparency mechanism can also suggest phasing out and dismantling of protection with the help of the instruments of efficiency pressure, accountability, global integration and tariff-bound competitiveness. The operating parameters of the transparency mechanism advisedly rely on public debate. This occurs through publication of reports and public participation in the evolution of perceptions and directions that facilitate the decision-making process. Predictability of the obligations and potentials is another important spin-off of the transparency mechanism.

The Bureau of Industrial Costs and Prices, India, has been working for over 22 years in precisely the framework incorporated into the UNCTAD secretariat report of July 1992. It has been advising the Government through its reports on normative costs and prices, technology, import policy, licensing policy, tariff levels, rationalization of tariff structure, quantitative restrictions, resource efficiency and international competitiveness.

The Bureau was set up in January 1970 with a charter to tender advice to the Government on various issues pertaining to cost reduction, improvement of industrial efficiency and pricing problems in relation to industrial costs. It has an independent status and is free to take up suo-moto studies where it deems such investigations desirable. Under the relevant Act, it can call for data from industry units and verify them in its own manner with field visits and unit-level discussions. The Bureau is free to interact with professionals, professional institutions, academic bodies, industry, etc. It is a multi-disciplinary organization comprising personnel from costing and finance as well as technical and economic disciplines. In its procedure, the Bureau designs a work plan, identifies issues through brain-storming sessions or discussions with industry and users' associations in order to get their response/feedback. It issues a comprehensive questionnaire for data collection, makes field visits for clarifications and data verification,

makes integrated technoeconomic-cost-price analyses and submits reports with recommendations. All Bureau reports are based on technoeconomic-cost-price studies with relevant tariff proposals which are sectoral or product-specific. During the last five years, an average of about 30 reports per annum have been submitted to the Government on various sectors/products/issues.

The Bureau has a full-time chairman and three full-time members (finance, technical and economic) assisted by professionals from various disciplines. Two ex-officio members (Director-General of Technical Development and the Economic Adviser to the Government of India, Ministry of Industry) participate in the Bureau's deliberations during finalization of reports for submission to the Government. The Director-General, Bureau of Public Enterprises, is also associated with the work of the Bureau as and when necessary in connection with studies on public sector projects. There is a well-developed computer centre to assist the Bureau in processing its reports. The Bureau has been working in a cost-effective manner using in-house manpower on a minimum essential basis, supplemented by consultants as required. The Bureau has a total staff of 161: half and half - professional and support personnel. The Bureau is administratively attached to the Ministry of Industry, but with minimal interactions and no interference in its professional work.

The Bureau's recommendations are advisory in nature. The advice of the Bureau is sought by various Ministries/Departments of the Government of India more or less on a continuing basis through references and in deliberations of different fora. Over time, the Bureau's work area has expanded beyond the industrial sector to encompass utilities, service and non-market organizations. Broadly, the study profile of the Bureau covers cost-price studies of products/commodities under price control, resource efficiency studies, tariff studies, developmental studies, studies of industrial policy issues, infrastructure pricing studies, and studies of international competitiveness. Some 691 reports/notes have been submitted to date. The major areas covered include: steel, coal, cement, fertilizers, aluminium, petro-chemicals, drugs and pharmaceuticals, food management, power, power plant equipment, sugar, oil-well platforms, alcohol industry, capital goods, auto-ancillaries, computers and electronics, dairy development, defence ordnance factories, energy-water-materials efficiency audit, tyres, telecommunications, in addition to tariff studies covering a wide range of products.

The Bureau has been recommending a normative price approach for price-controlled products/commodities, based on investigative studies. The consumption coefficients of input materials and utilities, economies-of-scale, capacity utilization, yields, etc., are set at higher achievable efficiency levels with the help of available technology. When the normative price calls for a protective tariff to sustain domestic production capabilities, appropriate tariff levels aimed at the twofold objective of reasonable protection and international competitiveness are recommended. This has paid dividends as industries have been made to learn to operate under efficiency pressure and to demonstrate higher efficiency levels. Consumers have also benefited.

Efficiency, incentives and international competitiveness together form the fulcrum of the Bureau's pricing formulations. New recommendations have been made such as adopting a plant availability factor (PAF) instead of a

plant load factor (PLF) in bulk power generation, "access fee" and "call charges" in fixing telecom tariffs, etc. In respect of pricing policy, the Bureau's recommendations fall roughly into five categories: (a) complete price and distribution decontrol of products where their manufacturing efficiency has reached a sufficiently high level, where the demand-supply gap is favourable and where the DRC calculations suggest that the industry/product is internationally competitive or can become so with a suitable tariff structure; the decontrol of aluminium, cement and steel has demonstrated higher growth in production, lower competitive prices and better export and larger public satisfaction with a quality product in the long run; (b) partial decontrol of product prices through dual pricing, thereby meeting both welfare needs and growth in production and investment; the pricing of sugar is an example in this category; (c) gradual price decontrol by phasing out the control on product pricing over a fixed time-schedule and simultaneously bringing an increased volume of production under internationally competitive bidding with limited price preference. In the pricing of oil-well platforms domestically produced by Mazagon Dock Ltd., for the Oil and Natural Gas Commission; this pricing strategy has been recommended; (d) reduction in the span of price control on products in the light of turnover and competitiveness criteria; this approach has been adopted in the drugs and pharmaceutical industry; and (e) a pricing model in which long-run marginal cost-based price works as a ceiling while investors have freedom in all other areas of operation. Fertilizer pricing could adopt such a model to exploit its growth potential.

In this context, the Bureau also takes note of the relevant issue of the adverse effects of decontrol, namely an increase in the price of decontrolled products, cartelization (as was seen in the case of the tyre industry) and a general inflationary spiral. It recommends appropriate corrective measures.

Based on the studies of the auto ancillaries and electronic component industry, the Bureau observed that an unduly high level of indigenization, as required under the erstwhile phased manufacturing programme (PMP) policy, was increasing the cost of production without any corresponding benefit in terms of technology adoption, acquisition of domestic technical skills, etc., and that the PMP policy was not in tune with the rapid technological changes and the declining trend of international prices. The Bureau recommended that the PMP policy of the Government be dismantled; as part of a liberalization programme, this has since been done.

Replacement of the "cost plus" regime and quantitative restrictions by a tariff-based regime has been a dominant refrain in the Bureau's recommendations. Related to the import policy, the recommendations have been to place more and more products under the international trade regime; imports should be decanalized and the tariff structure should be rationalized and streamlined so that exemptions and concessions are largely eliminated from the system; tariff levels should be categorized into homogeneous and manageable groups. A lowering of tariff levels to bring down the domestic cost of production and to allow international competitiveness has been a specific aspect of the Bureau's recommendations. The relationship of tariff levels in the chain of down-stream products and among raw materials, components and final products has been another important area of the Bureau's work. In this context, the Bureau takes into account the pertinent issue of backward and

forward linkages while recommending tariff levels to avoid anomalies. To a large extent, these recommendations are reflected in the current policy of liberalization and the opening up of the Indian economy.

The Bureau's recommendations also include internalization of the environmental conservation cost in the price, following the "polluter pays" principle. Sharing of the cost savings arising out of research and development efforts between the producer and the consumer on price-controlled products, as recommended by the Bureau, has been accepted by the Government in the bulk drugs industry.

In the study of the operations of the Food Corporation of India (FCI), the Bureau has, inter alia, identified that purely on normative operation, the reduction in the distribution costs and buffer carrying costs per annum in FCI operations would be about 2,000 million rupees or about 13 per cent of the level budgeted for 1990-1991, a saving that would go directly to reduce the food subsidy burden of the Government. Another revealing conclusion that emerged was that the FCI was found to be efficient and competitive with the private trade in the food grains market. The economic impact of alternative policies regarding food subsidies was also studied in an empirical general equilibrium framework, using different simulations. Assuming that all households with an income of 22,000 rupees per annum and above were prevented from using the public distribution system, 40 lakh tons of food grains would be saved; these could either be added to the buffer stock or be sold at open market prices. This saving could be invested in irrigation which in turn would lead to growth in output and productivity, albeit with a lag. This report has also enabled the Bureau to extend its normal domain to include efficiency studies of an organization as a whole.

In its appraisal of technological development, cost profile, tariff structure and developmental and structural changes issues, the Bureau has been enriched by its exposure to the on-the-ground experiences of other countries through a two-year UNDP-funded project. This involved productive interactions with the World Bank, IMF and the Asian Development Bank. This trend should be maintained and up-scaled.

The Bureau in its investigative studies and interactions has covered most of the Indian industries/economic activities in the organized sector. It has gained recognition as a credible organization. The data generated over the years through questionnaires and through the latest industrial database project covering 40 industries is a storehouse of material. When updated, it can help significantly in the formulation of growth- and incentive-oriented industrial and trade policies. With gradual deregulation, the Bureau will have to put greater emphasis on studies of efficiency, industrial policy issues, pricing guidelines for the utilities and infrastructure sectors, restructuring of non-market organizations, incentive issues, technology and developmental issues, composite issues relating to protection/anti-dumping/international competitiveness, and on economic benefits derived from concessions and exemptions. As a transparency mechanism, it will have to function more as a catalyst for measures harmonizing growth requirements, investment flows, environmental conservation and welfare needs. The focus must be on "self-reliance" rather than "self-sufficiency", a credo to integrate the best of global resources with the best of domestic resources. In this approach, public opinion becomes

important in the process of decision-making; "human relations" take their proper place on centre stage in a dominant light. There is already a proposal under Government consideration to restructure the Bureau as a full-fledged formal transparent mechanism and transform it into a commission on prices, tariffs and utilities.

More opportunities such as UNCTAD has provided for informal interactions between the developed and the developing countries on such important issues as the transparency mechanism would be welcomed in the months and years to come.

5. M. Rachad Bouhlal (Maroc)

Je voudrais tout d'abord vous remercier de m'avoir invité à participer à cette réunion pour présenter les mécanismes mis en place par le Maroc dans le cadre de la lutte contre le protectionnisme.

Avant d'aborder les structures qui seront mises en place, il est utile au préalable de présenter les étapes franchies par le Maroc dans le domaine de la réforme de sa politique du commerce extérieur. Celle-ci obéissait jusqu'en 1983 aux considérations suivantes : protection automatique tarifaire et contingentaire en faveur de la production nationale quel que soit le niveau d'efficacité économique de cette production; recours aux restrictions commerciales pour le redressement du déséquilibre des comptes extérieurs; recours à la fiscalité sur le commerce extérieur pour procurer des ressources au trésor en faisant du tarif douanier un palliatif aux insuffisances de la fiscalité intérieure; gestion de l'économie d'une manière centralisée et rigoureusement planifiée avec une intervention de l'Etat dans la production et le commerce qui revêtait un caractère monopolistique dans de nombreuses branches de l'économie; enfin, l'essentiel de la production était tourné vers le marché local dans le cadre d'une politique volontariste de substitution aux importations. D'une manière générale, la politique commerciale du Maroc était dictée par des considérations budgétaires ou dépendait de circonstances conjoncturelles, ce qui a conduit à une mauvaise affectation des ressources, un manque de compétitivité des produits marocains sur le marché international et des distorsions assez grandes entre les différents secteurs de l'économie.

Au milieu de l'année 1983, un vaste programme d'ajustement structurel a été mis en place dans le but d'atteindre un double objectif : a) stabiliser l'économie dans le court terme en réduisant la demande globale et l'ampleur du déficit de l'Etat; b) rendre l'économie saine et efficace par une réforme structurelle à même d'assurer une véritable transparence dans les réglementations et les procédures liées au commerce.

Dans ce cadre, un certain nombre de mesures ont été progressivement mises en place en vue de libérer les initiatives privées et d'éliminer les entraves aux échanges extérieurs. Parmi ces mesures on peut citer : a) la réduction des restrictions quantitatives : alors que toutes les importations étaient soumis à restriction en mars 1983, seuls 9 % actuellement des importations sont soumis à une autorisation administrative d'importation. Leur élimination totale est prévue à partir de janvier 1993. Seule une dizaine de produits demeurera soumise à autorisation d'importation pour des raisons de santé publique, sécurité, moralité; b) la réduction de la protection tarifaire : le taux plafond des droits de douane qui atteignait 400 % en 1983 a été consolidé à 40 % et sera porté à 35 % en janvier 1993.

Je rappelle que le Maroc a adopté le système harmonisé qui entrera définitivement en vigueur à partir de 1993. La mise en place en 1986 d'une commission nationale de simplification des procédures administratives relatives au commerce extérieur a accéléré notamment l'adoption de documents alignés sur ceux des Nations Unies et la suppression du monopole de l'Etat pour l'exportation des produits agricoles et agro-industriels. Toutes ces mesures qui vont dans le sens d'une plus grande transparence et dans l'élimination progressive du protectionnisme ont été confirmées et élargies

par l'adoption de mesures fondamentales qui ont le mérite de rendre irréversible l'option libérale prise par le Maroc en matière de commerce international.

Trois faits majeurs doivent être cités. Le premier est l'adhésion du Maroc au GATT en 1987, ce qui l'a rendu tributaire des principes et des règles de l'Accord général. Le second est la loi de privatisation. Le troisième est l'adoption par le Parlement marocain en 1991 de la loi relative au commerce extérieur. Cette loi a consacré le principe de la liberté des importations et des exportations de biens et services et a introduit une refonte totale du système de protection de la production nationale.

Ainsi, la protection octroyée aux différents secteurs de l'économie nationale sera homogène, transparente, reflétera l'évolution du marché international et sera définie sur la base d'une rentabilité économique prouvée. Elle revêtira essentiellement une forme tarifaire et exceptionnellement contingentaire pour une durée limitée et ce dans le cas de productions nouvelles seulement.

La loi sur le commerce extérieur a également retenu comme principes le recours à des mesures de sauvegarde en cas de préjudice causé à la production nationale. Dans ce cadre, il sera institué une Commission consultative des importations qui regroupe aussi bien les représentants des administrations concernées que les représentants des producteurs, importateurs et associations professionnelles. Cette commission a pour rôle de traiter des questions relatives aux : a) demandes de protection tarifaire ou contingentaire; et b) requêtes émanant des producteurs ou importateurs désirant invoquer des mesures de sauvegarde. Elle est chargée dans ce cadre d'émettre un avis sur toute demande de protection et peut entreprendre toute étude permettant l'évaluation du niveau de protection tarifaire ou de la durée de protection contingentaire dont pourrait bénéficier une production nouvelle.

La CCI est chargée en outre de proposer toute mesure destinée à corriger les distorsions des prix internationaux résultant des pratiques commerciales déloyales telles les importations en dumping ou subventionnées par le pays d'exportation. Ces mesures peuvent prendre la forme de droits anti-dumping ou de droits compensateurs. Elle mène des enquêtes pour déterminer s'il existe du dumping, des subventions ou des primes à l'exportation si les importations incriminées menacent réellement une branche de production nationale. Les procédures retenues pour les travaux de ladite Commission réservent une large place à l'information systématique des opérateurs économiques et accordent des délais raisonnables aux requérants pour fournir les arguments et justificatifs nécessaires à l'appui de leurs demandes.

Les réunions de la Commission sont publiques. Les avis et décisions en matière de protection ou de mesures de sauvegarde sont arrêtés dans une totale transparence et font l'objet d'une large diffusion auprès des opérateurs et associations professionnelles concernées.

Par ailleurs, les mutations rapides de l'environnement national et international requièrent que des mécanismes permanents de consultation soient mis en place pour permettre à l'Etat d'adapter continuellement son action aux exigences de la conjoncture et à la collectivité d'évaluer les coûts et bénéfices de la protection. A cet effet, il est prévu également dans les

textes d'application de la loi sur le commerce extérieur, la mise en place du Conseil national du commerce extérieur qui constitue un forum de concertation entre tous les intervenants dans le processus de formulation de la politique commerciale du Maroc.

Ce Conseil a pour mission : a) de formuler des avis consultatifs pour toute matière concernant les relations commerciales extérieures; b) de réaliser des études, mener des enquêtes et proposer des mesures de nature à renforcer la compétitivité des produits marocains sur les marchés étrangers; c) d'établir un rapport annuel qui fasse ressortir l'évolution des échanges extérieurs, et le comportement des importations et des exportations au regard de l'environnement national et international, et leur cohérence par rapport aux objectifs définis dans le cadre des plans de développement et aux contraintes liées à la croissance économique.

Le CNCE est composé de tous les ministères chargés des secteurs économiques, des établissements publics impliqués dans le commerce extérieur ainsi que les associations professionnelles des producteurs et des exportateurs et les chambres de commerce, d'industrie et de l'agriculture.

Voilà très succinctement les mécanismes en cours de mise en place au Maroc pour assurer le maximum de transparence en matière de politique commerciale.

6. Mr. A. Adetola (Nigeria)

Protectionism pre-1986

The Government of Nigeria introduced the structural adjustment programme in 1986. Prior to that date a regime of protectionist policies prevailed which involved import licensing for virtually all imports. Only a few commodities were exempted. This scheme came about during the slump in the oil market in the early 1980s when the small foreign exchange available was rationed to importers of raw materials, capital and consumer goods alike. Unfortunately, this scheme was subject to many abuses: industrialists badly in need of licenses to procure raw materials could not get them. This led to a sharp drop in the capacity utilization of industries and loss of jobs. Furthermore, most of the privileged people who had access to foreign exchange through the import license scheme did not use them for the purposes intended. Rationing of foreign exchange did not rest on a rational or scientific foundation. Many acting tariffs and a very long list of import bans (well over 70 groups of commodities) meant that relatively inefficient activities were encouraged to grow and expand, leading to inefficient use of human and material resources. The Nigerian economy was also inward-looking, in terms of non-oil products, presumably because of highly subsidized foreign exchange which discouraged exports - at a time when a viable market in the ECOWAS region remain untapped.

The structural adjustment programme (SAP) introduced in 1986 was therefore aimed at removing the problems outlined above, among others. SAP was essentially aimed at: liberalization of the economy through the removal of import licensing and price controls; removal of other administrative controls; moderation of the import prohibition and export prohibition policies; cancellation of export licenses and export taxes; liberalization of administration of foreign exchange; reintroduction of measures to promote export with a view to earning more foreign exchange which was retained 100 per cent by the exporting organization; privatization and commercialization of public enterprises.

The Tariff Review 1987-1988 was a general review of the Customs and Excise Tariff. Undertaken in 1987, by 1988 the Government approved the adoption of a tariff which removed most of the cascading characteristics of the previous regime. The rates were lowered except on products considered to be luxury items. Similarly, the import prohibition list was reduced considerably, retaining only items considered unacceptable for religious, cultural or security reasons.

The Tariff Review Board (TRD) was established with very strong private sector representation including universities, the Chamber of Commerce, industry and agriculture, the Nigeria Manufacturers Associates. The TRB was mandated to: ensure the consistency and predictability of the 1988 tariff; recommend any areas of tariff anomalies which should be corrected immediately; deal expeditiously with any anti-dumping cases.

Unfortunately, the deliberations of the TRB proceedings were not carried out in the open like the Industries Commission in Australia. Nevertheless, all agencies involved in the provision of inputs, and the procurement of outputs as well as all the competitors and consumers were allowed to

participate in the deliberation of the Technical Committee of the Tariff Review Board. A technical committee carries out a detailed appraisal of the request of the agency asking for protection before the TRB deliberates on the case. The report of the TRB is submitted to the Government and not made public. It is hoped that the TRB will soon become an Industries Assistance Commission.

Exchange rate policy has also been liberalized. Currently, foreign exchange is procured on the foreign exchange market by banks on behalf of their customers. The rate of exchange is no longer determined by the Central Bank of Nigeria, as was the case before 1986.

With regard to debt management, the country has been struggling to meet its external debt obligations by setting aside 30 per cent of export earnings. For this purpose, the Government has also been in constant dialogue with the bilateral and multilateral international financial institutions for rescheduling debt forgiveness.

7. Mr. Don E. Newquist (United States of America)

Today, I'd like to gear my remarks to points made in the 17 July 1992 report by the UNCTAD secretariat on "Trade Policies, Structural Adjustment and Economic Reform: Issues Relating to National Transparent Mechanisms in the Context of the Fight Against Protectionism". Let me begin by saying that I agree with what I perceive to be the general premise of that report, which is that the losses associated with structural adjustments to import competition tend to be felt in the short-run and concentrated on specific regions or market sectors. Thus, the costs stemming from import competition are more apparent, making it easier for adversely affected groups to organize political support for protectionist measures.

Of course, there also are offsetting, classic theoretical gains from reducing import barriers. Open markets permit the efficient allocation of resources among countries and make domestic producers more efficient. This, in turn, lowers prices and gives consumers more money to spend, save and invest, which creates new industries and jobs. Aside from the fact that certain trading partners may behave as "free riders" by not granting reciprocal access to their markets, the difficulty, of course, is that the benefits of open markets are often rather diffuse and long term. While many people gain a little bit from free trade, a few people are often hurt a great deal. Indeed, as far as those workers displaced by import competition (and their political representatives) are concerned, compensating gains in other, more competitive, sectors of the economy may seem hypothetical, at best. Transparent mechanisms, therefore, are important in educating and persuading policy-makers and the public as to the economy-wide benefits of trade liberalization.

In the UNCTAD secretariat's report six characteristics have been listed as being vital to effective transparent mechanisms. Today, I would like to discuss the three primary types of studies or investigations undertaken at the United States International Trade Commission (USITC), and then describe the specific sorts of transparent mechanisms associated with each type of study. I recognize, incidentally, that the UNCTAD secretariat's report contains a profile of the USITC and its functions, so the content of my remarks may already be familiar. Hopefully, however, I'll be able to elaborate somewhat on the analysis already provided.

First, certain institutional features of the USITC, even in comparison with other independent United States commissions, are uniquely designed to insulate USITC from political pressure. The Commission has six Commissioners, with no more than three appointed from any one political party. Commissioners are appointed to serve nine-year terms (longer than in any other independent commission). This obviously limits the number of appointments that can be made by even a two-term American President and is also intended to give Commissioners sufficient opportunity to develop independent expertise in trade matters. In addition, Commissioners do not serve "at the pleasure of the President", but may be removed only by impeachment.

Secondly, in order to limit the control of persons from either political party over the operations of the Commission, the powers of the Chairman are narrowly circumscribed. The chairmanship rotates every two years. The person designated as chairman may not be of the same political party as his

predecessor. Also, although the Chairman is responsible by law for internal administrative matters, any administrative decision by the Chairman may be overridden by a Commission majority. Most of the supervisory staff at the Commission - for instance, the directors of the office of investigations, office of economics, and the general counsel, are career civil servants, not political appointees. Furthermore, no career-status supervisor can be terminated except with the approval of a Commission majority. Thus, although the President may designate the Chairman, that person is unable to make his or her own policy imprint on the agency by hiring political appointees as senior staff.

Another feature that acts to foster the independence of the Commission is its independent litigating authority. By law, the Commission may represent itself in court, such as in proceedings to enforce Commission subpoenas and in appeals from Commission determinations which are filed with the Court of International Trade and the Court of Appeals for the Federal Circuit in Washington. Other United States government agencies in Washington are represented by the Department of Justice. Having the USITC represent itself in Court is intended to prevent the Department of Justice from shaping the substantive law of the Commission.

Finally, the Commission is totally independent of budgetary control by the Executive Branch of the Government. Other agencies must submit their budget request to the Office of Management and Budget in the Executive Branch, which then often modifies those requests prior to their submission to Congress. The law provides, however, that the budget request by the Commission shall be included in the President's overall budget without amendment.

So, as you can see, although the USITC certainly is not the only agency in Washington with expertise in trade matters, as trade analyses can also be done at the Department of Commerce, the Department of State, and the Office of the United States Trade Representative, the Commission is structurally designed to operate free from the controlling influence of either political party or the Executive or Legislative branch of the federal Government.

Turning now to the different types of investigations and studies performed at the Commission and the transparent mechanisms associated with each, the first type of investigation conducted is the so-called "section 337 investigations". These investigations, provided for under section 337 of the Tariff Act of 1930, concern the importation, or the sale after importation, of products which are alleged to infringe United States intellectual property rights (primarily, United States patents) or be in violation of certain "common law" rights (for example, imports which misrepresent their origin). These quasi-judicial investigations provide very rigorous, "judicial-like" procedural protection required under the Administrative Procedure Act to make the process quite transparent.

In 337-proceedings, the named respondent, importer or foreign exporter must be served with a copy of the complaint. A notice is published in the Federal Register so that other interested parties may learn of the investigation. Then, contested trial proceedings are conducted before independent administrative law judges. In the evidentiary hearings before these judges, 337-litigants are accorded the right of discovery and the right

to subpoena witnesses. They also have a right to cross-examine witnesses. The parties may introduce expert testimony, and the initial determinations by the administrative law judges are based on stated findings of fact.

Parties in 337-investigations are not permitted to engage in ex parte contacts with either the trial judge or with the Commission. Lastly, there is an office of attorneys within the USITC who participate as full parties to these investigations, with the statutory responsibility of representing the public interest. In other words, their function is to see that all the relevant issues are fairly presented and that the interests of the public are considered in any remedies or settlements that may result from these investigations. At the end of the proceeding, the administrative law judges' initial determinations are reviewed by the Commission, if the Commission finds that they contain errors of law or clearly erroneous findings of fact.

The second type of investigation conducted at the USITC involves anti-dumping and countervailing duty, and escape clause ("safeguards") investigations. Here too, the USITC follows, in the words of the Anti-dumping Code, "equitable and open procedures", resulting in determinations that must be based on "positive evidence". Specifically, foreign suppliers are given public notice of their opportunity to present their case, both in written briefs and at Commission public hearings.

Extensive information relating to market characteristics and the condition of the domestic industry is gathered both from public sources and in Commission questionnaires sent to procedures, importers and purchasers. The financial data provided in the questionnaires are then verified by USITC staff who examine the corporate records of all major producers. Where parties withhold information, it may be sought by judicially-enforceable subpoenas, or the Commission may infer that the withheld information was adverse to the withholding parties' position.

The non-confidential information that is gathered (including proprietary information that can be aggregated in such a way as to not reveal the operations of individuals firms) is provided to all parties to the investigation and available to the public. Also, there is a provision whereby all confidential, business, proprietary information obtained is released to the parties' legal counsel and economic consultants. This information is released under administrative protective orders which limit circulation to authorized persons only (usually counsel). Such orders prescribe in detail how business proprietary information shall be handled, and authorize the imposition of stiff penalties for any improper disclosure of such information. These restrictive procedures on the sharing of confidential information encourage businesses to provide information to the Commission, and thus improve the quality by ensuring that individual firms' proprietary information will be safeguarded. Also, they allow the foreign exporters to raise before the Commission, both in confidential briefs and in in camera portions of USITC hearings, literally anything that is revealed in the confidential producer and importer questionnaires.

The administrative record in these investigations contains highly competent economic and legal analysis. This analysis is provided both by the parties themselves and by industry analysts, economists, and attorneys on the Commission staff.

Other procedural protections include specific timetables for completing these investigations, but with a provision whereby the investigative deadlines may be extended in cases which are "extraordinarily complicated". Also, ex parte communications between parties and the Commission, including Commission staff, must be documented. Once the Commission has reached a determination, it must issue published opinions setting forth the facts and conclusion of law on which that determination is based. Also, the anti-dumping and countervailing duty laws require that opinions explain the analysis of the volume and price effects of imports under investigation, and explain the relevance of the factors considered in determining the impact of the imports upon domestic industry. The Commission's views are then published in a public report.

Finally, Commission determinations (along with the entire administrative record, including internal memoranda) are reviewable by the Court of International Trade or, in the case of investigations involving imports from Canada, the bi-national panels established under the United States-Canada Free Trade Agreement.

I want to turn now to the third type of Commission investigation, and that is our so-called section 332-investigations. Under section 332 of the Tariff Act of 1930 the Commission "shall make such investigations and reports as may be requested" by the United States President, by the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the United States Senate, or by each full house.

These studies, sometimes called "probably economic effects" studies, are similar but not identical to certain of the trade policy-related studies that are endorsed in the UNCTAD report. The difference is that the Commission only reports on the consequences of trade actions, not their appropriateness. Also, with certain minor exceptions, we do not have an on-going responsibility to monitor the impact of national trade policies.

Examples of such 332-studies include: quarterly reports on the composition and shifts in East-West trade; annual reports on the effect of the Caribbean Basin Economic Recovery Act; a report on international agreements to protect the environment and wildlife; various reports on the global competitiveness of United States industries (for example, the oilseeds, optical fibre technology, semiconductor manufacturing equipment, pharmaceuticals, and telecommunications equipment industries); and annual reports on the effects on the United States of the European Economic Community's 1992 programme.

The Commission also conducts 332-studies aimed at providing technical assistance to the United States Trade Representative in bilateral or multilateral trade negotiations, as required by statute, as well as occasional follow-up studies to the operation or impact of various trade programmes. Examples include: a study calculating the tariff equivalents of United States agricultural quotas, which related to the tariffication proposals in the agriculture negotiations in the Uruguay Round; an assessment of the rules of origin applicable under the Caribbean Basin Economic Recovery Act and the North American Free Trade Agreement; a report on United States and EC tariff subheadings applicable to all pharmaceuticals having international non-proprietary names (INN's) and intermediate chemical products. This study

was requested by the United States Trade Representative (USTR) in connection with the proposed "zero-for-zero" tariff reduction initiative currently being discussed in the market access negotiations in the Uruguay Round; reports on the projected impact of both the Canada Free Trade Agreement and the North American Free Trade Agreement, and on the effects of accelerating duty reductions under the former; and finally a report on the Japanese distribution system and options for improving United States access, which covers some of the issues addressed in the Structural Impediments Initiative with Japan. These section 332-investigations are conducted in a transparent manner, open to input from all interested parties (both foreign and domestic), through written submissions, interviews with Commission staff and at public hearings.

Turning to the sorts of economic analyses employed in the Commission's assessment of the economic effects of trade actions, the Commission has made very important contributions. In 1985, the USITC staff released a partial equilibrium model entitled "Calculating the Consumer and Net Welfare Costs and Benefits of Import Relief". 1/ This model is now used both at the USITC and, I'm told, internationally, as a standard reference by applied trade economists. Similarly, in February 1992, at the request of the USTR, the USITC hosted a symposium attended by a group of some 50 leading trade economists in the academic community, in an effort to assess objectively the various models used to analyse the economic effects of particular trade actions. A public report and economy-wide model for use in trade policy analysis followed.

Another study employing such an analysis was the report by the Commission published a few years ago (and now being updated) on the economic effects of significant United States import restraints on the manufacturing, agricultural and services sectors. This study relied on a USITC-developed computable general equilibrium model to measure the effects of removing import restrictions on United States imports, exports, domestic production, employment and wages, and the gains from lower import prices to consumers and to downstream industries purchasing the protected product. In this study, as in most all of Commission investigations, briefs and testimony were received not only from protected United States producers, but also from numerous consumer rights groups and foreign exporters and service providers. In addition, the Commission's economic models are made available for comment by all parties.

Returning to the issue of impartiality and whether the USITC is insulated from political pressure, Commissioners and staff naturally do have significant disagreements over a host of different trade issues. Nevertheless, the checks and balances which come with having transparent investigative procedures ensure a high level of objectivity and professionalism within the agency. USITC reports do sometimes become the subject of political debate in Washington. As unpleasant as this may be, however, it is well understood at the Commission that only by maintaining a reputation for credibility and objectivity can it make any real contribution to assist the Executive and Congress to formulate United States trade policy.

Finally, I want to add that although the Trade and Development Board's report speaks of transparent mechanisms "in the context of the fight against protectionism", I think it is important that transparency agencies, consistent with multilaterally agreed procedures, offer an outlet for those significantly injured by trade liberalizing policies to seek relief. Without outlets such as anti-dumping, countervailing duty, and escape clause mechanisms, it would be very difficult to take political decisions to liberalize trade.

Notes

1/ United States ITC Staff Research Study 15 (1985).